

Title 35-A, §708, Reorganizations

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we do require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 122nd Legislature, and is current through December 31, 2006, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office CANNOT perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§708. Reorganizations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Reorganization" means any creation, organization, extension, consolidation, merger, transfer of ownership or control, liquidation, dissolution or termination, direct or indirect, in whole or in part, of an affiliated interest as defined in section 707 accomplished by the issue, sale, acquisition, lease, exchange, distribution or transfer of voting securities or property. The commission may decide what other public utility actions constitute a reorganization to which the provisions of this section apply. Reorganizations include any reorganization for which a proceeding for approval is pending before any state or federal agency or court on or after July 13, 1982. For purposes of this subsection, a reorganization does not include any proceeding under the federal antitrust laws or the transfer of voting securities by gift, device or inheritance. [1987, c. 141, Pt. A, §6 (new).]

B. "Voting security" means any security presently entitling the owner or holder of any security to vote in the direction or management of the affairs of a company or any proprietary or other interest serving the same purposes. [1987, c. 141, Pt. A, §6 (new).]

[1987, c. 141, Pt. A, §6 (new).]

2. Reorganization subject to commission approval. Reorganization shall be subject to commission approval as follows.

A. Unless exempted by rule or order of the commission, no reorganization may take place without the approval of the commission. No reorganization may be approved by the commission unless it is established by the applicant for approval that the reorganization is consistent with the interests of the utility's ratepayers and investors. The commission shall rule upon all requests for approval of a reorganization within 60 days of the filing of the request for approval. If it determines that the necessary investigation cannot be concluded within 60 days, the commission may extend the period for a further period of no more than 120 days. In granting its approval, the commission shall impose such terms, conditions or requirements as, in its judgment, are necessary to protect the interests of ratepayers. These conditions shall include provisions which assure the following:

- (1) That the commission has reasonable access to books, records, documents and other information relating to the utility or any of its affiliates, except that the Public Utilities Commission may not have access to trade secrets unless it is essential to the protection of the interests of ratepayers or investors. The commission shall afford trade secrets and other information such protection from public disclosure as is provided in the Maine Rules of Civil Procedure;
- (2) That the commission has all reasonable powers to detect, identify, review and approve or disapprove all transactions between affiliated interests;
- (3) That the utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is not impaired;
- (4) That the ability of the utility to provide safe, reasonable and adequate service is not impaired;
- (5) That the utility continues to be subject to applicable laws, principles and rules governing the regulation of public utilities;
- (6) That the utility's credit is not impaired or adversely affected;
- (7) That reasonable limitations be imposed upon the total level of investment in nonutility business, except that the commission may not approve or disapprove of the nature of the nonutility business;

Title 35-A, §708, Reorganizations

(8) That the commission has reasonable remedial power including, but not limited to, the power, after notice to the utility and all affiliated entities of the issues to be determined and the opportunity for an adjudicatory proceeding, to order divestiture of or by the utility in the event that divestiture is necessary to protect the interest of the utility, ratepayers or investors. A divestiture order shall provide a reasonable period within which the divestiture shall be completed; and

(9) That neither ratepayers nor investors are adversely affected by the reorganization.

[1987, c. 141, Pt. A, §6 (new).]

B. The commission may intervene on behalf of the State in any proceeding before any state or federal agency or court before which an application for approval of reorganization is pending. The commission may enter into any binding settlement related to any proceeding in which the commission has intervened and may exercise any powers or rights provided by that settlement and may enforce these powers or rights. [1987, c. 141, Pt. A, §6 (new).]

[1987, c. 141, Pt. A, §6 (new).]

2-A. Approval does not affect rate-making powers. Commission approval of a reorganization under this section may not limit or restrict the powers of the commission in determining and fixing any rate, fare, tolls, charge, classification, schedule or joint rate as provided in this Title.

[1989, c. 159, §3 (new).]

3. Waiver. The commission may, by genreal rule, exempt classes of reorganizations from the requirements of subsection 2.

[1987, c. 141, Pt. A, §6 (new).]

4. Filing fee. Within 30 days after the application for approval of a reorganization is filed pursuant to subsection 2, the commission may order the applicant to pay a filing fee not to exceed \$50,000, if the commission determines that the application may involve issues which will necessitate significant additional costs to the commission. The applicant may request the commission to waive all or a portion of the filing fee. The commission shall rule on the request for waiver within 30 days. Notwithstanding any other provision of law, filing fees paid as required in this subsection shall be segregated, apportioned and expended by the commission for the purposes of processing the application. Any portion of the filing fee that is received from an applicant and is not expended by the commission to process the application shall be returned to the applicant.

[1987, c. 141, Pt. A, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

PL 1989, Ch. 159, §3 (AMD).